

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
DEL RIO DIVISION

IRMA VILLARREAL INDIVIDUALLY	\$	
AND AS A/N/F OF JAIME	\$	
VILLARREAL III AND EMMALY	\$	
VILLARREAL	\$	
Plaintiffs,	\$	
	\$	
VS.	\$	CIVIL ACTION NO. <u>2:17-cv-00046</u>
	\$	
UNITED STATES OF AMERICA	\$	
Defendant,	\$	

**COMPLAINT**

NOW COMES IRMA VILLARREAL INDIVIDUALLY AND AS NEXT OF FRIEND OF JAIME VILLARREAL AND EMMALY VILLARREAL, Plaintiffs herein, complaining of the UNITED STATES OF AMERICA, Defendant herein, and would show the Court as follows:

**PARTIES**

1. Plaintiffs, IRMA VILLARREAL, JAIME VILLAREAL AND EMMALY VILLARREAL are residents of the Western District of Texas and reside at 214 Villa Circle, Eagle Pass, Texas 78852.

2. Defendant, UNITED STATES OF AMERICA, may be served by delivering a copy of the summons and complaint to the United States Attorney for the Western District of Texas, Mr. John F. Paniszczyn, at the United States Attorney's Office, 601 NW Loop 410, Suite 600, San Antonio, Texas 78216, and by sending a copy of the summons and complaint by certified mail to Ms. Melissa P. Albright, Civil Process Clerk, Office of the United States Attorney for the Western

District of Texas, 601 NW Loop 410, Suite 600, San Antonio, Texas 78216 and to the Commissioner of Customs and Border Protection, United States Department of Homeland Security, 1300 Pennsylvania Avenue, N.W., Washington, District of Columbia 20229.

**JURISDICTION AND VENUE**

3. This Court has jurisdiction under Sections 2671 to 2680 and Section 1346(b) of Title 28 of the United States Code, commonly known as the Federal Tort Claims Act.

4. Venue: The acts and omissions complained of in the lawsuit occurred in the judicial district in which this Court sits and venue is proper in the Western District of Texas under 28 United States Code §1402(b).

5. Plaintiff timely filed her Claim for Damages, Injury, or Death (standard form 95) with the United States Department of Homeland Security, Eagle Pass Sector, U.S. Border Patrol, 4156 El Indio Highway, Eagle Pass, Texas 78852. See attached **Exhibits "A"**. Said agency has failed to compensate the Plaintiff thereby authorizing the Plaintiff to bring this suit.

6. Plaintiff has complied with all conditions precedent to the filing of this cause of action.

**CAUSE OF ACTION**

7. Plaintiffs IRMA VILLARREAL INDIVIDUALLY AND AS NEXT OF

FRIEND OF JAMIE VILLARREAL III AND EMMALY VILLARREAL ,  
would show the Court that on or about September 23, 2015,  
Mrs.

Villarreal was driving west on El Indio Highway in her 2011 Ford Explorer automobile. A United States vehicle, operated by United States Border Patrol Agent Ramon Garza, was also traveling west and behind the Plaintiff's vehicle. On said date, Plaintiff was stopped at a stop sign when she was struck from behind without notice by Border Patrol Agent Robert Ramon Garza after he failed to keep an assured clear distance between his vehicle and the Plaintiff's vehicle and failed to keep proper forward lookout. At the time of the collision Border Patrol Agent Ramon Garza was in the course and scope of his duties for the United States Customs and Border Protection Agency, U.S. Department of Homeland Security. In causing the collision of the vehicles involved, the said Ramon Garza was guilty of various acts or omissions which constitute negligence as enumerated below, each of which constitutes a proximate cause of plaintiffs' injuries and damages, to wit:

- a. In failing to keep a proper lookout for other traffic as a reasonable and prudent person would have done under the same or similar circumstances;
- b. In failing to make a timely application of his brakes;

- c. In failing to take proper evasive action in order to avoid the collision;
  - d. In failing to maintain proper control of his vehicle; and
  - e. In failing to keep an assured clear distance between his vehicle and the Plaintiff's vehicle, in violation of Texas Transportation Code §545.062.
8. Under the Federal Tort Claims Act and under the laws of the State of Texas, the Defendant UNITED STATES OF AMERICA would be liable to the Plaintiffs for their personal injuries and loss of property caused through the negligent or wrongful act(s) or omission(s) of its employee, Ramon Garza, committed while acting within the scope of his office or employment with the Defendant.

**DAMAGES**

9. Plaintiffs IRMA VILLARREAL INDIVIDUALLY AND AS NEXT OF FRIEND FOR JAIME VILLARREAL III AND EMMALY VILLARREAL, would show that as a proximate cause of the aforesaid negligence of the above named Defendant, Plaintiffs sustained injuries to their neck, low back, suffer from severe headaches, and they have suffered physical pain and mental anguish in the past and in all reasonable probabilities will continue to so suffer in the future; they have suffered physical impairment in the past and

in all reasonable probabilities will continue to so suffer in the future; Mrs. Villarreal has suffered impairment to earning capacity in the past and in all reasonable probability continue to suffer a loss of wage earning capacity in the future. Plaintiffs have incurred reasonable and necessary medical expenses for the proper treatment of her injuries in the past and in all reasonable probabilities will continue to incur medical expenses in the future. Plaintiffs would further show that because of the conduct of the above named Defendant, she sustained property damages to her 2011 Ford Explorer automobile in the total amount of two thousand one hundred eighty six dollars and fifty seven Cents **(\$2,186.57)**. Additionally, Mrs. Villarreal has incurred loss of use expenses as a result of the damage to her vehicle in the amount of **\$350.00**. All of the aforementioned damages are in a total amount of one hundred and two thousand five hundred twenty one dollars and eight two cents, **(\$102,521.82)** for which she sues.

10. Plaintiffs further allege that they are entitled to recover prejudgment and post-judgment interest as provided by law.

WHEREFORE, PREMISES CONSIDERED, Plaintiffs pray that the Defendant be served with citation and required to appear and answer this petition, that upon final hearing hereof Plaintiffs have judgment against the Defendant, for Plaintiffs' damages as alleged herein, for costs of court and for such other and further relief, both general and special, at law and in equity, to which the Plaintiffs may be justly entitled.

Respectfully submitted,

**DE LOS SANTOS LAW FIRM, PLLC**  
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By:                     /S/                      
**Luis De Los Santos, Jr.**

State Bar No. 24054449

ATTORNEY FOR PLAINTIFFS